

Exhibit 1

klindsay

From: Arnold, Roy W. [RArnold@ReedSmith.com]
Sent: Thursday, January 21, 2016 6:20 PM
To: 'Daniel V. Gsovski'; Kontul, Justin J.; 'klindsay@islcl.net'; rcorley@islcl.net;
'philip@lowcountrybankruptcy.com'
Subject: RE: Pinks - Revised Discovery Letter to Judge Ellis

It is staying where we put it. You don't have approval rights on this text. It is joint letter. M&T has the right to place the footnote at the beginning of the letter. We are filing. We aren't playing any more games with you Dan and we aren't causing our staff any further inconvenience beyond that which you have already caused. My secretary missed her bus because of your inconsiderate game playing. Have a nice night.

Kind regards,

Roy

Roy W. Arnold
rarnold@reedsmith.com
+1 412 288 3916

Reed Smith LLP
225 Fifth Avenue
Pittsburgh, PA 15222-2716
T: +1 412 288 3131
F: +1 412 288 3063
reedsmith.com

From: Daniel V. Gsovski [mailto:DGsovski@herzfeld-rubin.com]
Sent: Thursday, January 21, 2016 6:18 PM
To: Kontul, Justin J.; 'klindsay@islcl.net'; rcorley@islcl.net; 'philip@lowcountrybankruptcy.com'
Cc: Arnold, Roy W.
Subject: RE: Pinks - Revised Discovery Letter to Judge Ellis

Justin:

We have though the matter over and will not submit additional material, but will not agree to allow your new footnote to be included included in joint text. Once again, you are free to place it wherever you like but it must be in your position statement.

Dan

Daniel V. Gsovski
Herzfeld & Rubin, P.C.
125 Broad Street
New York, New York 10004
dgsovski@herzfeld-rubin.com
Telephone: (212) 471-8512
Mobile: (917) 640-6194
Fax: (212) 344-3333

klindsay

From: Daniel V. Gsovski [DGsovski@herzfeld-rubin.com]
Sent: Thursday, January 21, 2016 6:00 PM
To: Kontul, Justin J.; 'klindsay@islc.net'; rcorley@islc.net; 'philip@lowcountrybankruptcy.com'
Cc: Arnold, Roy W.
Subject: RE: Pinks - Revised Discovery Letter to Judge Ellis

Our "counterfootnote" will be in your hands within the next ten minutes. You are not authorized to file on our behalf or over our signature without it.

Dab

Daniel V. Gsovski
Herzfeld & Rubin, P.C.
125 Broad Street
New York, New York 10004
dgsovski@herzfeld-rubin.com
Telephone: (212) 471-8512
Mobile: (917) 640-6194
Fax: (212) 344-3333



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From: Kontul, Justin J. [mailto:JKontul@ReedSmith.com]
Sent: Thursday, January 21, 2016 5:52 PM
To: Daniel V. Gsovski; 'klindsay@islc.net'; rcorley@islc.net; 'philip@lowcountrybankruptcy.com'
Cc: Arnold, Roy W.
Subject: RE: Pinks - Revised Discovery Letter to Judge Ellis

Attached is the final version of the letter in clean and redline form. M&T has a right to edit the introductory text and has added a footnote to point the Court to the undisputed facts. We intend to file the letter at 6:00 pm.

Thanks,
Justin

Justin J. Kontul
jkontul@reedsmith.com
+1 412 288 3098

Reed Smith LLP
Reed Smith Centre
225 Fifth Avenue
Pittsburgh, PA 15222-2716
T: +1 412 288 3131
F: +1 412 288 3063
reedsmith.com

From: Arnold, Roy W.
Sent: Thursday, January 21, 2016 5:39 PM
To: 'Daniel V. Gsovski'; 'klindsay@islc.net'; rcorley@islc.net; 'philip@lowcountrybankruptcy.com'
Cc: Kontul, Justin J.
Subject: RE: Pinks - Revised Discovery Letter to Judge Ellis

Even when you agree to something in writing Dan, it apparently is not an agreement.
We will send the final version shortly.
Roy

Roy W. Arnold
rarnold@reedsmith.com
+1 412 288 3916

Reed Smith LLP
225 Fifth Avenue
Pittsburgh, PA 15222-2716
T: +1 412 288 3131
F: +1 412 288 3063
reedsmith.com

From: Daniel V. Gsovski [<mailto:DGsovski@herzfeld-rubin.com>]
Sent: Thursday, January 21, 2016 5:23 PM
To: Arnold, Roy W.; 'klindsay@islc.net'; rcorley@islc.net; 'philip@lowcountrybankruptcy.com'
Cc: Kontul, Justin J.
Subject: RE: Pinks - Revised Discovery Letter to Judge Ellis

Roy:
We will take care of the under seal exhibits per Justin and Kathy's exchanges. Just to be clear, we are not signed off until we have received and reviewed exactly what you propose to e-file, i.e. the pdf/a file, complete with signatures, etc., for final sign off and (hopefully not) needed revisions or corrections.
My silence on the subject of your immediately preceding e-mail does not signify agreement.
Dan

Daniel V. Gsovski
Herzfeld & Rubin, P.C.
125 Broad Street

New York, New York 10004
dgsovski@herzfeld-rubin.com
Telephone: (212) 471-8512
Mobile: (917) 640-6194
Fax: (212) 344-3333



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From: Arnold, Roy W. [<mailto:RArnold@ReedSmith.com>]
Sent: Thursday, January 21, 2016 5:10 PM
To: Daniel V. Gsovski; 'klindsay@islc.net'; rcorley@islc.net; 'philip@lowcountrybankruptcy.com'
Cc: Kontul, Justin J.
Subject: RE: Pinks - Revised Discovery Letter to Judge Ellis

We will review, revise as appropriate our section and file per our prior emails.
We will not be filing the exhibits under seal. That is up to plaintiff's counsel.
Roy

Roy W. Arnold
rarnold@reedsmith.com
+1 412 288 3916

Reed Smith LLP
225 Fifth Avenue
Pittsburgh, PA 15222-2716
T: +1 412 288 3131
F: +1 412 288 3063
reedsmith.com

From: Daniel V. Gsovski [<mailto:DGsovski@herzfeld-rubin.com>]
Sent: Thursday, January 21, 2016 5:06 PM
To: Arnold, Roy W.; 'klindsay@islc.net'; rcorley@islc.net; 'philip@lowcountrybankruptcy.com'
Cc: Kontul, Justin J.
Subject: RE: Pinks - Revised Discovery Letter to Judge Ellis

Roy:

Neither side has control over the other's submission. By the same token, both must agree to the Joint portions. What you sent us for the first time just after 2PM today is your statement of what you view as your most helpful facts, drafted with all the care and skill you can bring to bear. It is not our take on the relevant undisputed facts, and we will not allow it to be presented to the Court as such, in whole or in part. It must therefore go in your statement (wherever you like) and nowhere else, just as what we see as the equally uncontroverted factual matter on which we rely is found in our statement of position and nowhere else.

Attached is our final version, accompanied by a redline showing changes. Our movement of your undisputed fact statement does not presume to suggest where or how in your statement you place it, but assumes that you would want it to go first. Obviously, you and you alone will decide where to place it. Formatting may have shifted as part of the move, so you will want to be sure it survived intact.

On another purely technical matter, probably for Justin to clarify, since you will be filing the letter, should you not also file all exhibits, including "under seal" exhibits, as part of the single filing, which would presumably be easier for the Court? If your ruling is that we should do the under seal filing, we will wait for your filing and then file the under seal exhibits thereafter so that we can reference them to the docket number assigned to the joint letter.

Kindly circulate a letterhead "final" for our signoff and we will review and clear it for filing promptly. As previously noted, I should appear in the signature block as counsel for plaintiff.

Dan

Daniel V. Gsovski
Herzfeld & Rubin, P.C.
125 Broad Street
New York, New York 10004
dgsovski@herzfeld-rubin.com
Telephone: (212) 471-8512
Mobile: (917) 640-6194
Fax: (212) 344-3333



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PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY TRANSACTION OR MATTER ADDRESSED HEREIN.

From: Arnold, Roy W. [mailto:RArnold@ReedSmith.com]

Sent: Thursday, January 21, 2016 3:32 PM

To: Daniel V. Gsovski; 'klindsay@islc.net'; rcorley@islc.net; 'philip@lowcountrybankruptcy.com'

Cc: Kontul, Justin J.

Subject: RE: Pinks - Revised Discovery Letter to Judge Ellis

Dan,

You improperly used the extension, in effect, to write plaintiff's reply to our position into your position statement. You didn't merely edit plaintiff's position. That wasn't appropriate. However, since you did it, we have every right to refute your assertions with additional statements. Plaintiff made significantly more than 150 revisions to his position statement in the last round of edits. I am not going to waste time counting words or revisions further because it serves no productive or useful purpose. We did not double the length of M&T's position statement and we are fairly confident that anyone doing the pointless task of comparing the redlines would conclude that plaintiff's changes were far more extensive.

The undisputed fact statements at pages 1-2 are not disputed by plaintiff and really cannot be disputed in any reasonable way. Telling the judge up front what is not disputed is entirely appropriate and will aid Magistrate Judge Ellis in understanding the issues, particularly given the way you try to mischaracterize M&T's position in plaintiff's section.

You don't get to control this process and you don't have a right to the "last word." This isn't a process that should involve endless rounds of retorts. Our revisions are responsive to your edits. We can go back to the way you originally proposed the joint letter with our position statement first, if you'd like.

You took approximately 25 hours to edit and revise plaintiff's position statement. We took slightly less than 25 hours to revise M&T's position statement after receipt of plaintiff's revised statement. The emails clearly show this timing. The joint letter document should be filed today.

We are willing to be flexible on the timing of the filing today but that isn't a license for continued re-writing and delay.
Roy

Roy W. Arnold

rarnold@reedsmith.com

+1 412 288 3916

Reed Smith LLP

225 Fifth Avenue

Pittsburgh, PA 15222-2716

T: +1 412 288 3131

F: +1 412 288 3063

reedsmith.com

From: Daniel V. Gsovski [mailto:DGsovski@herzfeld-rubin.com]

Sent: Thursday, January 21, 2016 3:04 PM

To: Kontul, Justin J.; 'klindsay@islc.net'; rcorley@islc.net; 'philip@lowcountrybankruptcy.com'

Cc: Arnold, Roy W.

Subject: RE: Pinks - Revised Discovery Letter to Judge Ellis

Justin:

The 109 revisions to your statement noted on the pdf version add 1,937 words to your statement, nearly doubling its size. That, of course, is your right. We question, however, whether you can demand that we sign off on the letter by 4 PM, less than two hours after your sent it to us. (As I write this, exactly one hour of this time remains.)

If we can, we will provide additional material and sign off today, though almost certainly not by 4PM. If we cannot do so, we trust you will not oppose an additional day's extension of time. We will be back to you within the hour on the timing issue.

In the meantime, we can definitively state that we will not sign off on the placement on the new matter set forth on pp. 1-2. You are free to place it wherever you like in your statement of position, much like our "Background" section. We are advising of this so that it can be implemented immediately.

Please note also that the filed version, once signed off by us, will require a signature block and "e-signature" for me.

Dan

Daniel V. Gsovski

Herzfeld & Rubin, P.C.

125 Broad Street

New York, New York 10004

dgsovski@herzfeld-rubin.com

Telephone: (212) 471-8512

Mobile: (917) 640-6194

Fax: (212) 344-3333



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From: Kontul, Justin J. [<mailto:JKontul@ReedSmith.com>]

Sent: Thursday, January 21, 2016 2:11 PM

To: Daniel V. Gsovski; 'klindsay@islc.net'; rcorley@islc.net; 'philip@lowcountrybankruptcy.com'

Cc: Arnold, Roy W.

Subject: Pinks - Revised Discovery Letter to Judge Ellis

Counsel,

Attached is the revised discovery letter in clean (Word document) and redline (PDF) form.

I will send the exhibits in a separate email shortly. As previously discussed, plaintiff will need to file exhibits 3 and 5 under seal.

We are prepared to file the attached letter and exhibits today. Please confirm by 4 pm EST that the attached letter may be filed with exhibits and we will proceed to do so.

Although we believe it would be inappropriate at this juncture, to the extent that plaintiff revises his position, M&T reserves the right to make amendments and respond appropriately.

Justin

Justin J. Kontul
jkontul@reedsmith.com
+1 412 288 3098

Reed Smith LLP
Reed Smith Centre
225 Fifth Avenue
Pittsburgh, PA 15222-2716
T: +1 412 288 3131
F: +1 412 288 3063
reedsmith.com

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